## CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	<b>▼</b> For	*00	✓ Disc	ourt.	☐ U.S.
				-				_
Joseph Hennessy		Squad #12	202001304	☑ Ab	use	☐ O.L.		☑ Injury
Incident Date(s)		Location of Incident:	-	Preci	inct:	18 Mo. S	SOL	EO SOL
Friday, 02/08/2019 11:05 PM		Saint Nicholas Avenu 191st Street and West		34	4	8/8/20	20	3/25/2021
Date/Time CV Reported		CV Reported At:	How CV Reported	: Dat	e/Time	Received a	at CCI	RB
Tue, 02/18/2020 11:20 AM		CCRB	Phone	Tue	e, 02/18	/2020 11:2	20 AM	[
Complainant/Victim	Туре	Home Addr	ress					
Witness(es)		Home Addr	ress					
Subject Officer(s)	Shield	TaxID	Command					
1. POM John Bonhomme	00633	954559	034 PCT					
2. POM Carlos Pages	15802	957929	034 PCT					
3. POM Daniel Boylan	13957	959503	034 PCT					
4. POM Howard Peralta	02064	934052	034 PCT					
5. Officers								
Witness Officer(s)	Shield N	Tax No	Cmd Name					
1. POM Joshua Cumberbatch	22517	962339	034 PCT					
2. SGT Marcin Czerwinski	04202	941611	034 PCT					
3. Isaiah Williams		962168						
4. SGT Hekmatulla Mukhtarzada	03383	949517	034 PCT					
5. POM Michael Virella	22899	943931	034 PCT					
6. POM Ismael Perezortiz	14794	962682	034 PCT					
7. POF Yessebel Sena	14359	961270	034 PCT					
Officer(s)	Allegati	on			Inve	stigator F	Recon	nmendation
A.POM John Bonhomme	Abuse: S	Sergeant John Bonhomn	ne stopped § 87(2)(b)					
B.POM John Bonhomme	Abuse: S	Abuse: Sergeant John Bonhomme frisked §87(2)(b)						
C.POM John Bonhomme	Abuse: Sergeant John Bonhomme searched \$87(2)(b)							
D.POM John Bonhomme		Force: Police Officer John Bonhomme used physical force against \$87(2)(b)						
E.POM Carlos Pages	Force: Police Officer Carlos Pages used physical force against § 87(2)(b)							
F.POM Howard Peralta	Force: Pagainst §	olice Officer Howard P	eralta used physical	force				
G.POM Daniel Boylan	Force: Police Officer Daniel Boylan used physical force against \$87(2)(b)							
H. Officers	Force: Officers used physical force against §87(2)(b)							
I. Officers	Discourtesy: Officers spoke discourteously to \$87(2)							

## **Case Summary**

■ filed this complaint with the CCRB via telephone on February 18, 2020. On February 8, 2019, at approximately 10:30 p.m., \$87(2)(b) exited the 191<sup>st</sup> Street subway station in Manhattan, after a physical dispute with § 87(2)(b) on the subway platform. Officers from the 34<sup>th</sup> Precinct responded to a report of the dispute and encountered § 87(2)(b) Nicholas Avenue between West 191st Street and West 192nd Street. Officer John Bonhomme approached \$87(2)(b) and grabbed \$87(2)(b) by his open jacket (Allegation A: Abuse of ). Officer Bonhomme patted § 87(2)(b) Authority, § 87(2)(g) s upper body and his waist area (Allegation B: Abuse of Authority, \$87(2)(g)). \$87(2)(b) had two upper pockets located on his jacket that were closed by a zipper. Officer Bonhomme unzipped § 87(2)(b) pocket and removed two pills from the pocket (Allegation C: Abuse of Authority \$87(2)(g) Officer Bonhomme, Officer Carlos Pages, Office Howard Peralta and other officers forcibly moved to the ground and several officers punched and kicked § 87(2)(b) while he was on the ground (Allegations D-F: Force, \$87(2)(g) ). Officer Boylan arrived and used a hand strike against § 87(2)(b) while he was on the ground (Allegation G: Force, §87(2)(g) Unidentified officers punched \( \) \( \) \( \) \( \) in the back of the head (Allegation H: Force, \( \) \( One or more officers told § 87(2)(b) "Get on the fucking ground" (Allegation I: Discourtesy, § 87(2)(g) ). § 87(2)(b) was arrested § 87(2)(b) The investigation obtained BWC (Body Worn Camera) footage from several officers (BR02-BR11), which have been summarized (BR12-BR20). **Findings and Recommendations** Allegation (A) Abuse of Authority: Police Officer John Bonhomme stopped 387(2)(5) Allegation (B) Abuse of Authority: Police Officer John Bonhomme frisked (8) 87(2)(5) Allegation (C) Abuse of Authority: Police Officer John Bonhomme searched \$39/200 was interviewed at the CCRB on March 6, 2020 (BR01). On February 8, 2019, at approximately 10:30 p.m., §87(2)(6) exited the 191st Street subway station in Manhattan after having a physical and verbal dispute with \$87(2)(b) followed § 87(2)(b) speaking on the phone. § 87(2)(b) ran away from §87(2)(b) He saw several police cars drive past. When § 87(2)(b) was at Saint Nicholas Avenue between West 191st Street and West 192nd Street, \$87(2)(b) signaled to a passing police vehicle and spoke with the officers, including a uniformed white male officer in his 30s who was approximately 5'9"-5'10" with a stocky build and wearing a skullcap. This officer was identified by the investigation as Officer John Bonhomme. was on the opposite side of the street and could not hear their conversation. §87(2)(b) raised his hands in the hair, and stated loudly, "I'm right here." Officer Bonhomme ran toward and grabbed \$87(2)(b) by his open jacket. Officer Bonhomme told \$87(2)(b) they had received a call from \$87(2)(b) stating that he had assaulted her. Officer Bonhomme asked "Can I pat you down?" \$87(2)(b) told Officer Bonhomme to "go ahead." Officer Bonhomme patted § 87(2)(b) s upper body and his waist area. Officer Bonhomme unzipped s upper left jacket pocket and removed two pills from the pocket. Officer Bonhomme put the pills back in \$87(2)(b) s pocket. Officer Bonhomme never asked \$87(2)(b) if he could

Officer John Bonhomme was interviewed by the CCRB on September 2, 2020 (BR21). Officer

enter his pocket.

Bonhomme received a call over the radio regarding a civilian female member of service who had been assaulted by a male in the subway. Officer Bonhomme and other team members arrived at Wadsworth Avenue and 191st Street in Manhattan at approximately 10:49 p.m. At this location, Officer Bonhomme spoke with the female caller. The caller raised her arm and pointed at \$37(2)(5) stating, "That's him right there." Officer Bonhomme stated that he had probable cause to arrest \$37(2)(5) due to the identification, but that additional work was required to complete the arrest because \$37(2)(5) attempted to flee by walking away from the scene. Officer Bonhomme, Officer Pages, Officer Peralta, and other officers approached \$37(2)(5) and told him to stop. \$37(2)(5) and told him to stop. \$37(2)(5) are complied with their order. Officer Bonhomme may have searched \$37(2)(5) and told him to stop. \$37(2)(5) are complied with their order. Officer Bonhomme stated this search occurred after \$37(2)(5) are was taken to the ground and was under arrest. No officer frisked or searched \$37(2)(5) prior to \$37(2)(5) being taken to the ground.
Officer Bonhomme recorded BWC footage of this incident (BR02, summarized in BR12). The footage begins with Officer Bonhomme seated in the front passenger seat of a police vehicle. The police vehicle is in motion and its turret lights appear to be flashing. At 0:26 minutes, Officer Bonhomme exits the vehicle. Officer Bonhomme begins running down a street. Audio begins at 0:30 minutes. At 0:30 minutes, Officer Bonhomme makes contact with an individual identified by the investigation as street. See Just 1:12 minutes, officer Bonhomme's left and holds street and lifts it away from the ground. At 0:37 minutes, Officer Bonhomme's left arm and lifts it away from the ground. At 0:40 minutes, one or more unidentified officers says, "Get on the fucking ground." At 0:42 minutes, one or more officer holds see Just 1:12 minutes, Officer Bonhomme says, "Stop resisting bro. Stop resisting. Stop resisting" and at approximately 1:00 minute an officer tells street by solutions of the officers is not clear. At 1:12 minutes, Officer Bonhomme stands up and moves away from street and on the floor. Street Bonhomme says, "She is right here. She over here, she's over here, sarge." At 1:42 minutes, PO Bonhomme says, "She's right here. She pointed him out."
Several other officers recorded BWC footage of this incident. However, Officer Bonhomme's footage most clearly depicts the physical interaction between officers and \$87(2)(b) No other footage depicts any frisks or searches or the handcuffing of \$87(2)(b)
Probable cause is established, absent materially impeaching circumstances where "the victim of an offense communicates to the arresting officer information affording a credible ground for believing the offense was committed and identifies the accused as the perpetrator" <u>People v. Jackson</u> , 105

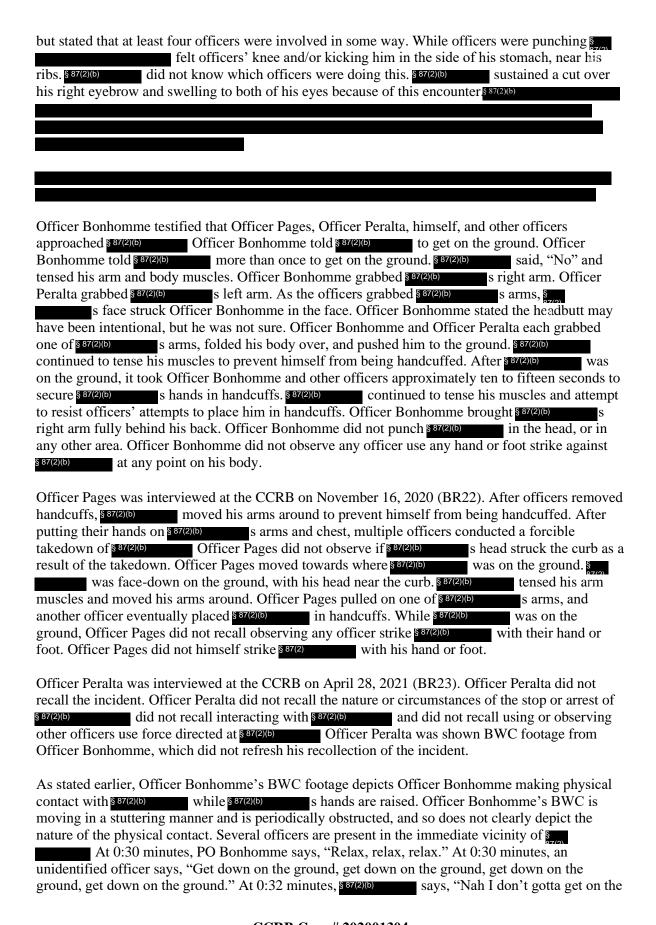
If a police officer is authorized to arrest an individual, then they are similarly authorized to perform a search of that individual's person incidentally thereto. <u>People v. Valentine</u>, 1995 N.Y. App. Div. LEXIS 10594, 220 A.D.2d 708, 632 N.Y.S.2d 663 (BR30).

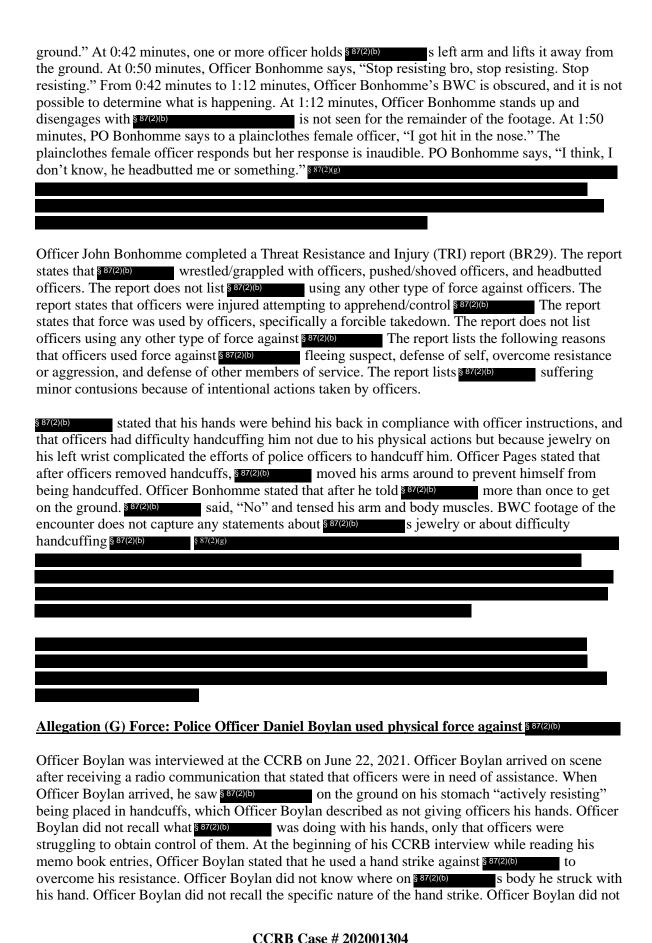
A.D.3d 866, 962 N.Y.S.2d 679, 2013 N.Y. App. Div. LEXIS 2357, 2013 NY Slip Op 2414, 2013

All parties affirm that after \$87(2)(b) and \$87(2)(b) had a verbal and physical altercation, \$27(2)(b)

WL 1442575 (BR28).

while speaking with Officer Bonhomme and verbally indicated that was the perpetrator of an offense. Additionally, \$87(2)(b) stated that he waved his arms in order to communicate to officers that he was the individual who they were seeking. As per Jackson, \$87(2)(b) stated that he waved his arms in order to communicate to officers that he was the individual who they were seeking. As per Jackson, \$87(2)(b) stated that he waved his arms in order to communicate to officers that he was the individual who they were seeking. As per Jackson, \$87(2)(b) stated that he waved his arms in order to communicate to officers that he was the individual who they were seeking. As per Jackson, \$87(2)(b) stated that he waved his arms in order to communicate to officers that he was the individual who they were seeking. As per Jackson, \$87(2)(b) stated that he waved his arms in order to communicate to officers that he was the individual who they were seeking. As per Jackson, \$87(2)(b) stated that he waved his arms in order to communicate to officers that he was the individual who they were seeking. As per Jackson, \$87(2)(b) stated that he waved his arms in order to communicate to officers that he was the individual who they were seeking.
reported that he was not immediately placed under arrest when officers approached him. BWC footage shows that \$87(2)(b) attempted to flee and was physically detained by officers who then sought to have \$87(2)(b) confirm her identification of \$87(2)(b) as her assailant. \$87(2)(b) \$87(2)(c)
reported that he was frisked and searched before being handcuffed and before he was taken to the ground. PO Bonhomme's BWC shows that officers physically engaged with immediately after they approached him, that he was on the ground with 15 seconds of the approach, and that officers attempted to place him in handcuffs immediately after he was brought to the ground. While the entirety of the handcuffing process is not visible from Officer Bonhomme's BWC footage, the footage does depict the initial approach [887(2)(g)]
Allegation (D) Force: Police Officer John Bonhomme used physical force against \$887(2)(b)
Allegation (E) Force: Police Officer Carlos Pages used physical force against 887(2)(6) Allegation (F) Force: Police Officer Howard Peralta used physical force against 887(2)(6)
In his statement to the CCRB, \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$ stated that after he was searched by Officer  Bonhomme, an officer approached \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$ from behind and instructed him to place his hands behind his back. \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$ s right wrist but was unable to handcuff \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$ s left wrist because \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$ told the officers to  remove his jewelry. An officer told \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$ that he was "resisting arrest" and again instructed him to place his hands behind his back. \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$ told the officers that his hands were already behind his back. An officer put his right foot in front of \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$ s feet, which caused \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$  The combination of these two actions caused \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$ to fall on the ground, where he landed face first on the ground. \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$ lifted his head off the ground, and he felt approximately six punches to the back of his head. \$\frac{\sqr(2)(0)}{\sqr(2)(0)}\$ did not know who was administering these punches





have an independent recollection of the hand strike. Officer Boylan only knew about the hand strike because it was mentioned in the TRI report that he prepared and his memo book entry. In his CCRB interview, Officer Boylan stated that he did not record footage of the interaction on his BWC because he was signing out of his tour at the time he received a radio call and had already changed from uniform into plainclothes.

Officer Boylan completed a Memo Book entry (Board Review 33) in which he wrote the following: "10-13 officer in need of assistance at W[est] 190 Street and St. Nicholas Avenue updated to Wadsworth and West 190 Street. I did observe [defendant] actively resisting refusing to give officers his hands and I did use a hand strike to overcome resistance and place defendant under arrest."

Officer Boylan completed a TRI (Board Review 32). In the report, he noted that he used a hand strike, and that the force was used in defense of self and other members of service, and to overcome resistance or aggression.

In his testimony, Officer Bonhomme estimated that there were ten officers on scene when pointed to \$87(2)(b) Officer Bonhomme testified that it took Officer Bonhomme and other officers approximately ten to fifteen seconds to secure \$87(2)(b) shades in handcuffs after taking him to the ground.

<u>Patrol Guide</u> Procedure 221-01 (Board Review 27) explains that in all circumstances, any application or use of force must be reasonable under the circumstances. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In situations in which this is not safe and/or appropriate, [members of service] will use only the reasonable force necessary to gain control or custody of a subject. When determining whether the use of force is reasonable, members of service should consider the following:

- a. The nature and severity of the crime / circumstances
- b. Actions taken by the subject
- c. Duration of the action
- d. Immediacy of the perceived threat or harm to the subject, members of the service, and / or bystanders
- e. Whether the subject is actively resisting custody
- f. Whether the subject is attempting to evade arrest by flight
- g. Number of subjects in comparison to the [members of service]
- h. Size, age, and condition of the subject in comparison to the members of service
- i. Subject's violent history, if known
- j. Presence of hostile crowd or agitators
- k. Subject apparently under the influence of a stimulant / narcotic which would affect pain tolerance or increase the likelihood of violence

The following factors are relevant to making a determination about the reasonableness of Officer Boylan's hand strike: the actions taken by the subject; the duration of the action; the number of subjects in comparison to the number of officers; and the immediacy of the perceived threat or harm to the subject, members of the service, and or bystanders.

As per Officer Boylan's testimony, \$87(2)(b) was on his stomach on the ground when Officer Boylan used a hand strike against him. As per Officer Bonhomme's testimony, it took officers approximately 10-15 seconds to secure \$87(2)(b) shands in handcuffs, and approximately 10 officers were present at the location before Officer Boylan and another officer arrived.

was the only subject of police activity at the location. According to Officer Boylan, other than not presenting his hands to officers so that he could be immediately placed in handcuffs, Officer Boylan did not articulate any action that \$87(2)(b) took in response to being handcuffed. Officer Bonhomme confirmed that \$87(2)(b) tensed his arms to prevent himself from being handcuffed. While Officer Bonhomme reported that \$87(2)(b) headbutted him, Officer Bonhomme stated that he was not certain that this act was intentional, and Officer Boylan did not report to the CCRB that he was aware this action had occurred. \$87(2)(c)
§ 87(2)(g)
Allegation (H) Force: Officers used physical force against § 87(2)(b)
As noted above, \$87(2)(b) reported that he was punched in the back of the head six times, but he was not able to identify the officer or officers who performed these actions.
As stated earlier, Officer Bonhomme did not observe any officer use any hand or foot strike against at any point on his body, and Officer Peralta did not recall using or observing other officers use force directed at [887(2)(b)]
§ 87(2)(g)
Allegation (I) Discourtesy: Officers spoke discourteously to \$87(2)(5)
As stated earlier, at 0:40 minutes in Officer Bonhomme's BWC footage (BR02, summarized in BR12), one or more unidentified officers says, "Get on the fucking ground."
BWC footage recorded of the incident does not show which officer or officer made this statement.
§ 87(2)(g)
Civilian and Officer CCRB Histories
• § 87(2)(g)

**CCRB Case # 202001304** 

	g 67(2)(g)		
		been a member-of-service for eignints and nine allegations, none of	
Officer		n a member-of-service for six yeard four allegations, none of which	
	Howard Peralta has b CCRB complaints and	een a member-of-service for 17 y d seven allegations.	ears and has been the subject
	Daniel Boylan has be CCRB complaints and	en a member-of-service for five y l 11 allegations.	vears and has been the subject
•			
	Media	tion, Civil and Criminal Histor	<u>ies</u>
<ul> <li>Conviction</li> <li>Accord with the DOB e</li> <li>As of J</li> </ul>	ling to the Office of Cotions in New York City ling to the Office of Cote arrest number related xist. anuary 13, 2021, the N	ate this complaint.  purt Administration (OCA), \$87(2)(6)  y (BR25).  purt Administration, no open crimed to this incident, \$87(2)(6)  New York City Office of the Complaint (BR24)	ninal court cases associated full name, or \$87(2)(b) s
Squad No.:	12		
Investigator:	<u>. Joseph Hennessy</u> Signature	Investigator Hennessy Print Title & Name	September 9, 2021  Date
Squad Leader:	Carlmais Johnson Signature	IM Carlmais Johnson Print Title & Name	October 21, 2021 Date
Reviewer:	Signature	Print Title & Name	 Date